

**REMARKS**

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed February 14, 2007. Claims 1-21 are pending in the Application.

The Specification is objected to for various informalities. Claim 20 is objected to for informalities. Claim 20 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 20 stands rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 19 and 20 stand rejected under 35 U.S.C. §102(e) as being anticipated by Challenger *et al.* (U.S. Patent Pub. No. US2003/0186679). Claims 1-12, 15-16, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Challenger *et al.* in view of Juitt *et al.* (U.S. Patent No. US 7,042,988). Claims 13-14 and 17-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Challenger *et al.* in combination with Juitt *et al.*, as applied to Claim 1 above, and in further view of Won *et al.* (U.S. Patent No. 6,754,488).

In response to these rejections, Claims 1 and 19-21 have been amended to further clarify the subject matter which Applicants regard as the invention, without prejudice or disclaimer to continued examination on the merits. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added. Based upon the amendments and the arguments presented herein, reconsideration of the Application is respectfully requested.

**Specification – Objected to for various informalities**

Applicants have amended the Specification in response to the various objections due to informalities raised by the Examiner. Therefore, withdrawal of these objections is respectfully requested.

**Claim 20 – Objection and Rejections under §112, Second Paragraph, and §101**

Claim 20 is objected to for informalities due to a misspelling. Claim 20 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 20 stands rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The §112 and §101 rejections are due to Claim 20 reading on paper media due to the recited definitions of “computer readable media” in the Specification on page 45, lines 6-18.

In response, Applicants have deleted the non-statutory subject matter from the specification on page 45, lines 6-18 as suggested by Examiner<sup>1</sup> (i.e., applicants have deleted “paper media including punch cards and paper tape” from the specification). Additionally, Applicants have amended Claim 20 to correct the misspelling of “readable”.

Based on the amendments presented herein, Applicants respectfully submit that the rejections and objection of Claim 20 for informalities, as being indefinite under 35 U.S.C. §112, second paragraph, and as being directed to non-statutory subject matter under 35 U.S.C. §101 has now been traversed. Therefore, withdrawal of these rejections and objection is respectfully requested.

**Claims 19-20 - §102(e) Rejection – Challenger *et al.***

Claims 19 and 20 stand rejected under 35 U.S.C. §102(e) as being anticipated by Challenger *et al.* (U.S. Patent Pub. No. US2003/0186679).

With regard to Claim 19, Applicants respectfully submit that Challenger *et al.* do not disclose “detecting a wireless device utilizing one or more dynamic operational and security assessments, wherein the one or more dynamic operational and security assessments detect the wireless device responsive to behavior of the wireless device” as

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<sup>1</sup> See Non-Final OA, Page 4

disclosed by Applicants. Specifically, Challenger *et al.* only discloses identifying rogue or unauthorized access points utilizing a list of authorized access points.<sup>2</sup> The determination of a rogue or unauthorized access point by Challenger *et al.* is based on a comparison with the list.

Applicants utilize one or more dynamic operational and security assessments to detect a wireless device. Also, the detected wireless device does not have to be unauthorized, but could be an authorized device engaging in anomalous behavior based on the assessments. Accordingly, Applicants have amended Claim 19 to further clarify the (a) detecting step.

Specifically, Claim 19 has been amended to recite:

19. A method for tracking location of a wireless device, the method comprising the steps of:

(a) detecting *a wireless device utilizing one or more dynamic operational and security assessments, wherein the one or more dynamic operational and security assessments detect the wireless device responsive to behavior of the wireless device;*

(b) adding an indicator associated with the detected wireless device to a list of wireless devices;

(c) selecting a wireless device for tracking based upon the list of wireless devices;

(d) receiving data from one or more wireless receivers;

(e) calculating a position of the selected wireless device based upon the received data;

(f) outputting the calculated position;

(g) repeating steps (a) and (b) upon occurrence of an event or at periodic intervals;

(h) repeating steps (c) through (f) upon occurrence of an event or at periodic intervals.

Claim 20 is a dependent claim depending on Claim 19. Based on the amendments and arguments presented herein with regard to independent Claim 19, Applicants respectfully submit that the rejection of Claims 19 and 20 as being anticipated by

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<sup>2</sup> U.S. Patent Pub. No. US2003/0186679, Paragraphs [0026] and [0027]

Challener *et al.* has now been traversed. Therefore, withdrawal of this rejection is respectfully requested.

**Claims 1-12, 15-16, and 21 - §103(a) Rejection – Challener *et al.* and Juitt *et al.***

Claims 1-12, 15-16, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Challener *et al.* in view of Juitt *et al.* (U.S. Patent No. US 7,042,988).

With regard to Claim 1, Applicants respectfully submit that Challener *et al.* and Juitt *et al.* do not teach “identifying a wireless device for tracking based upon a combination of dynamic operational and security assessments derived using data from the system data store, wherein the dynamic operational and security assessments identify the wireless device for tracking responsive to behavior of the wireless device.” The same arguments presented herein with regards to Claims 19-20 apply with equal force here, i.e., Challener *et al.* only teaches identifying rogue or unauthorized access points utilizing a list of authorized access points.<sup>3</sup> Accordingly, Applicants have amended independent Claim 1 to further clarify the invention with these elements.

Examiner states Challener *et al.* suggest tracking criteria by monitoring during normal business hours.<sup>4</sup> Also, Examiner states that Juitt *et al.* teach a data store capable of storing one or more tracking criteria. Juitt *et al.* teach detecting unauthorized access points by monitoring SNMP, MAC addresses, and 802.11 DS Layer signals and characteristics of network traffic on both sides of the server.<sup>5</sup> Applicants utilize a combination of dynamic and operational security assessments to identify devices based on their behavior, and further authorized devices can be tracked based upon these assessments.

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<sup>3</sup> U.S. Patent Pub. No. US2003/0186679, Paragraph [0027]

<sup>4</sup> See Non-Final OA, page 7

<sup>5</sup> U.S. Patent No. US 7,042,988, Col. 4, lines 15-21

Specifically, Claim 1 has been amended to recite:

1. A system for tracking location of a wireless device, the system comprising:

a system data store capable of storing one or more tracking criteria and indicators of one or more wireless devices to track;

a set of one or more wireless receivers;

a system processor in communication with the system data store and the set of wireless receivers, wherein the system processor comprises one or more processing elements programmed or adapted to perform the steps comprising of:

(a) identifying a wireless device for tracking based upon *a combination of dynamic operational and security assessments derived using data from the system data store, wherein the dynamic operational and security assessments identify the wireless device for tracking responsive to behavior of the wireless device;*

(b) receiving data from a subset of the set of wireless receivers;

(c) storing the received data in the system data store;

(d) calculating the position of the identified wireless device based upon the stored data; and

(e) outputting the calculated position.

Additionally, Claims 2-12, 15-16 are dependent claims depending from Claim 1 or an intervening dependent claim. Accordingly, the arguments and amendments made herein with regard to Claim 1 apply with equal force here.

With regard to Claim 21, Applicants respectfully submit that Challener *et al.* and Juitt *et al.* do not disclose rogue detection means as disclosed by Applicants. The rogue detection means of Claim 21 are a means-plus-function limitation under §112, sixth paragraph. Means-plus-function limitations “shall be construed to cover the corresponding structure...described in the specification and equivalents thereof.”<sup>6</sup> Applicants have disclosed rogue detection means in the specification which include one or more dynamic detection tests performed on scanned data to detect wireless devices based on behavior.

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<sup>6</sup> 35 U.S.C. §112, sixth paragraph

Specifically, Challener *et al.* and Juitt *et al.* only focus on rogue detection of access points, and neither teaches dynamic operational and security assessments as disclosed by Applicants to detect a wireless device based on its behavior. Accordingly, Applicants have amended Claim 21 in a similar manner as Claims 1 and 19.

Specifically, Claim 21 has been amended to recite:

21. A system for tracking location of a wireless device, the system comprising:

storing means for storing one or more tracking criteria and indicators of one or more wireless devices to track;

rogue detection means for receiving scan data from one or more wireless receivers, for detecting *a* wireless device based upon *one or more dynamic operational and security assessments operable to detect the wireless device based on behavior, wherein the assessments are performed on* the received scan data, and for storing an indicator of the detected wireless device; and

position determining means for selecting a wireless device to track from the indicators in the storing means, receiving scan data from one or more wireless receivers, estimating the position of the selected wireless device based upon received scan data and outputting the estimated position.

Based on the amendments and arguments presented herein, Applicants respectfully submit that the rejection of Claims 1-12, 15-16, and 21 as being unpatentable over Challener *et al.* in view of Juitt *et al.* has now been traversed. Therefore, withdrawal of this rejection is respectfully requested.

**Claims 13-14 and 17-18 - §103(a) Rejection – Challener *et al.*, Juitt *et al.*, and Won *et al.***

Claims 13-14 and 17-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Challener *et al.* in combination with Juitt *et al.*, as applied to Claim 1 above, and in further view of Won *et al.* (U.S. Patent No. 6,754,488).

Claims 13-14 and 17-18 are dependent claims depending from Claim 1 or an intervening dependent claim. Therefore, the amendments and arguments presented herein apply with equal force here. Applicants respectfully submit that the rejection of Claims 13-14 and 17-18 as being unpatentable *Challener et al.* in combination with *Juitt et al.*, as applied to Claim 1 above, and in further view of *Won et al* has now been traversed. Therefore, withdrawal of this rejection is respectfully requested.

**CONCLUSION**

Applicants would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

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